IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.749 of 2007
Date of Decision: 16.4.2007

Gram Panchayat Fattuwala

Petitioner

versus

State of Punjab and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri B.S.Sidhu, Advocate for the petitioner

Jasbir Singh, J. (Oral)

This writ petition has been filed against order dated 11.10.2006 Annexure P/7, vide which, the Commissioner has set aside the order passed by the Collector dated 15.9.2004 and remanded the matter to decide it afresh, as per law. It is an admitted position that earlier also, the Commissioner set aside the order passed by the Collector dated 13.12.1993 and remanded the matter to the Collector, to decide it afresh, after looking into claim of the private respondents that the Gram Panchayat was not owner of the property, in dispute. When the matter was taken up again by the Collector, a specific plea was raised by the private respondents, by invoking provisions of Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (in short, the Act), to decide question of title, as they were claiming ownership of the property, in dispute, being one of the co-sharers. The Collector, in a very arbitrary manner, without adopting procedure, as is necessary, to decide claim under the provisions of Section 11 of the Act, again decided the matter in a summary manner, without framing any issue and without giving any finding as to whether land was kept reserved for common purposes, during consolidation proceedings or

not. The issue was decided against the private respondents, simply on the ground that in the jamabandi, the Gram Panchayat has been mentioned as owner of the disputed land. Above said finding was given without realizing a fact that mutation was changed in favour of the Gram Panchayat on the basis of some letter written by the State Government, and it is yet to be decided whether ownership rights can be changed on the basis of a letter written by the authorities without any authority/ law. When the matter went to the Commissioner, he, by noticing above mentioned facts, set aside the order passed by the Collector and remanded the matter to him again, to decide it as per the provisions of law, by framing issues and giving finding on question of title, raised by the private respondents. We feel that the order passed by the Commissioner is perfectly justified and innocuous one. After setting aside his order, the Collector has been asked to decide the matter afresh, as per law. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

April 16, 2007 **(Nirmal Yadav)**
gk **Judge**